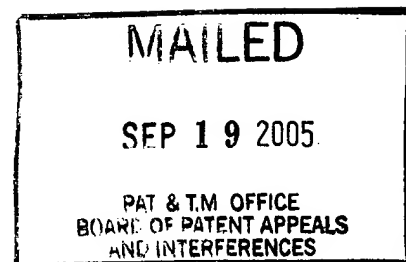


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID KAZMER and LIANG ZHU

Application No. 09/578,108



ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on June 17, 2005. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

A review of the file reveals that small entity fees were applied to the Notice of Appeal filed August 14, 2003, the Appeal Brief filed March 8, 2004, and the Request for Oral Hearing filed July 8, 2004. Before further review of this file, the correct

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fees for a large entity status must be applied to the appellants' account for the Notice of Appeal, the Appeal Brief, and the Request for Oral Hearing.

Also, on May 5, 2004, the examiner mailed an examiner's answer. There is no clear indication that an appeal conference was held because the examiner's answer contains only the typed name of the conferee (i.e., Javid Amini). No signature or initialing by the conferee is present. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. These two appeal conference participants must place their initials next to their name. This will make the record clear that an appeal conference has been held.

Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that this application be returned to the examiner for: 1) entry of the correct fees for the Notice of Appeal, the Appeal Brief, and the Request for Oral Hearing; 2) signature or initial from examiner, Javid Amini, indicating proof of conference; 3) notifying the appellants, in writing,

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that the appeal conference was held; and 4) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES

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FCH/tdl